

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THERESA BROOKE, a married woman
dealing with her sole and separate claim,

Plaintiff,

v.

DAVI LLC, a California limited liability
company dba Holiday Inn Express &
Suites Davis,

Defendant.

No. 2:21-cv-0096 KJM DB

ORDER

On February 22, 2021, plaintiff filed a motion for default judgment and noticed the motion for hearing before the undersigned on March 26, 2021, pursuant to Local Rule 302(c)(19). (ECF No. 7.) Plaintiff did not file proof of service of notice of the motion on the defendant. It is true that service of a motion for default judgement on a defaulting party is not required. See Fed. R. Civ. P. 55(b)(2) (requiring that written notice of an application for default judgment be served upon the party against whom judgment is sought only if that party “has appeared in the action”); Local Rule 135(d) (excusing parties from serving documents submitted to the court upon “parties held in default for failure to appear” unless a document asserts new or additional claims for relief against the defaulting parties).

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1 However, it is also true that a defendant's "appearance need not necessarily be a formal
2 one, i.e., one involving a submission or presentation to the court. In limited situations, informal
3 contacts between the parties have sufficed when the party in default has thereby demonstrated a
4 clear purpose to defend the suit." Wilson v. Moore & Associates, Inc., 564 F.2d 366, 369 (9th
5 Cir. 1977). Therefore, out of an abundance of caution, it is the undersigned's practice to request
6 that a plaintiff seeking default judgment serve all defendants with notice of a motion for default
7 judgment.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The March 26, 2021 hearing of plaintiff's motion for default judgment (ECF No. 7) is
10 continued to **May 7, 2021**;

11 2. On or before **April 9, 2021**, plaintiff shall serve a copy of the motion for default
12 judgment, and a copy of this order, on each defendant; and

13 3. On or before **April 30, 2021**, plaintiff shall file proof of such service.

14 DATED: March 22, 2021

/s/ DEBORAH BARNES

UNITED STATES MAGISTRATE JUDGE